

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

In re:

MILLENNIUM MULTIPLE EMPLOYER  
WELFARE BENEFIT PLAN,

Case No.: 10-13528  
Chapter 11

Debtor.

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**COVERED EMPLOYERS, MISSION RANCHES COMPANY, LLC, A CALIFORNIA, LLC, AND MESA PACKING LLC, A CALIFORNIA LLC, AND THE MISSION RANCHES PLAN PARTICIPANTS, DAVID GILL, MICHAEL HITCHCOCK, STANLEY PURA, AND JOHN ROMANS, AND THE MESA PACKING PLAN PARTICIPANTS, DAVID GILL AND MICHAEL HITCHCOCK'S SECOND AMENDED NOTICE OF UNAVAILABILITY DUE TO HEALTH REASONS AND REQUEST FOR CONTINUANCE OR ABATEMENT OF HEARINGS FROM JANUARY 5, 2011 THROUGH FEBRUARY 5, 2011 ON, THEIR MOTION, PURSUANT TO 11 U.S.C. §362(D) AND FED. R. BANKR. P. 4001(A), FOR AN ORDER VACATING, MODIFYING OR GRANTING RELIEF FROM THE AUTOMATIC STAY (D.E. 199) AND THEIR JOINDER IN THE CLAUDE YOUNG MOVANTS' JULY 1, 2010 MOTION TO DISMISS DUE TO INELIGIBILITY (D.E. 241 & 132) (SEE FN. 2 & 5, AND PAR. 6-9), AND ON ANY HEARINGS ON PLAN CONFIRMATION**

Covered Employers, Mission Ranches Company, LLC, a California, LLC ("Mission Ranches"), and Mesa Packing LLC, a California LLC ("Mesa Packing") (Mission Ranches and Mesa Packing shall collectively be referred to herein as the "Covered Employers"), and the Mission Ranches Plan Participants, David Gill ("Gill"), Michael Hitchcock ("Hitchcock"), Stanley Pura ("Pura"), and John Romans ("Romans"), and the Mesa Packing Plan Participants, Gill and Hitchcock (collectively Gill, Hitchcock, Pura and Romans shall be referred to as the "Plan Participants", while Gill and Hitchcock shall also be referred to separately as the "Mesa Plan Participants"), by and through their undersigned counsel, hereby submits this their undersigned counsel, Ivan J. Reich of Gray Robinson, P.A.'s Second Amended Notice of Unavailability,<sup>1</sup> and in Response to this Court's Order Striking the Amended Notice of

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<sup>1</sup> The First and Amended Notice of Unavailability were docketed at D.E. 479 & 481.

Unavailability (D.E. #486), hereby Notifies the Court and all parties in interest that undersigned counsel will be having a major surgical procedure performed on January 5, 2011 (which surgery has been scheduled since August, 2010 and has been made known to counsel for both the Debtor's and the Committee with whom undersigned counsel has been in negotiation with on these matters) that will render him unavailable to practice law for one month following the January 5, 2011 procedure, and requests that from January 5, 2011 through February 5, 2011 that no hearings, motions, notices to produce, interrogatories, pleadings or other papers, directed toward the Covered Employers and Plan Participants, be set or be filed which require a timely response during this time period; and that all pending matters be abated as they relate to the Covered Employers and Plan Participants during this period of time. The filing and service of this Notice shall constitute an application and request for continuance, extension of time and/or for a protective order as may be appropriately required for the above reasons.

The specific matters that the Covered Employers and Plan Participants have pending before this Court, and which are asked to be deferred at this time, are: (1) their Joint Motion, and incorporated memorandum of law, pursuant to 11 U.S.C. § 362(d)(1) & (2), Fed. R. Bankr. P. 4001(a), 7004 and 9014, and Local Bankruptcy Rules 4001 and 9013, for an Order Vacating, Modifying or Granting Relief from the Automatic Stay in this case, "for cause", and because Debtor lacks any equity in the subject property that is not necessary for its reorganization, so that the Covered Employers may exercise their contractual rights to transfer the policies in the Millennium Multiple Employer Welfare Benefit Plan (the "Plan"), relating to the Plan Participants to either a single employer plan or a different multiple employer plan, under ¶3.07 and ¶3.05 of the Plan (the "Motion for Stay Relief") (D.E. 199), along with (2) those responses filed in opposition to the Motion for Stay Relief (D.E. 427 & 437), along with (3) the Covered

Employees and Plan Participants' Joinder (D.E. 241) in the (4) July 1, 2010 Motion to Dismiss for lack of eligibility filed by the Claude Young group of Movants (D.E. 132) (see fn. 2 & 5, and par. 6-9), along with (5) any responses filed in opposition to that Motion to Dismiss (D.E. 329, 336 & 429).

Further, the Covered Employers and Plan Participants request that no hearings be set during that time period on any proposed Confirmation Hearings on any proposed Plans filed in this case, and that any deadlines to file responses or voting on said plan, be abated solely for the Covered Employers and the Plan Participants, during this time period.

While undersigned counsel is the only person at his firm who is thoroughly familiar with the issues surrounding these motions and plan negotiations, and requests that any hearings on these matters be heard only by him, parties and the Court may contact either of undersigned's bankruptcy partners concerning bankruptcy, motion and plan issues, in his Jacksonville office, Jason Burnett at [jason.burnett@gray-robinson.com](mailto:jason.burnett@gray-robinson.com), at 904-598-9929, or in his Miami office, Steven Solomon at [steven.solomon@gray-robinson.com](mailto:steven.solomon@gray-robinson.com), at 305-416-6880, or concerning overall settlement and contacting clients with Michael Canan, undersigned's ERISA partner, [michael.canan@gray-robinson.com](mailto:michael.canan@gray-robinson.com) at 407-843-8880.

Date: November 29, 2010

Respectfully submitted,

GRAY ROBINSON P.A.

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/s/ Ivan J. Reich

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and

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**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served on all parties on the attached Service List using the Court's CM/ECF system this 29<sup>th</sup> day of November, 2010.

/s/ Ivan J. Reich

Ivan J. Reich, Esq.

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